

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION**

<p>LOWER BRULE SIOUX TRIBE; and individual members Neil Pierre Russell, Stephanie Bolman, Ben Janis,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p>v.</p> <p>LYMAN COUNTY; LYMAN COUNTY BOARD OF COMMISSIONERS; BRIAN KRAUS, in his official capacity as Lyman County Commissioner; LESLIE REUER, in her official capacity as Lyman County Commissioner; ZANE REIS, in his official capacity as Lyman County Commissioner; RYAN HUFFMAN, in his official capacity as Lyman County Commissioner; JARED SCHELSKE, in his official capacity as Lyman County Commissioner; and DEB HALVERSON, in her official capacity as Lyman County Auditor,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>Case No. 3:22-cv-03008-RAL</p> <p style="text-align: center;"><b>PARTIES' DISCOVERY REPORT AND PLAINTIFFS' PROPOSED DISCOVERY PLAN</b></p>
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The parties hereby submit for the Court's consideration their Discovery Report pursuant to Fed. R. Civ. P. 26(f), and Plaintiffs' proposed Discovery Plan, in accordance with this Court's Order dated August 12, 2022 (ECF No. 56).

Plaintiffs' proposed Discovery Plan sets forth deadlines designed to expedite trial. Plaintiffs request an expedited trial in light of the important claims asserted and in order to provide Plaintiffs full relief.

Defendants intend to file a motion to dismiss for lack of subject matter jurisdiction and mootness and propose staying the setting of many discovery deadlines until their motion is ruled on.

The parties' respective positions are indicated below.

**A. Date and Place of the Meeting and Identification of the Parties, their Attorneys, and Insurers**

1. Counsel for the parties participated in a Rule 26(f) conference on September 9, 2022, via telephone.
2. Plaintiffs' addresses: Lower Brule Sioux Tribe, 187 Oyate Cir., Lower Brule, SD 57548; Neil Pierre Russell, Post Office Box 58, Lower Brule, SD 57548; Stephanie Bolman, 33948 238th St., Reliance, SD 57569; and Ben Janis, Post Office Box 246, Lower Brule, SD 57548  
  
Defendants' addresses: Lyman County, 300 Main Street, Kennebec, SD 57544; Brian Kraus, 23961 335th Ave., Reliance, SD 57569; Leslie Reuer, 33149 245th St., Reliance, SD 57569; Zane Reis, 300 E. 3rd St., Oacoma, SD 57365; Ryan Huffman, 412 S. Main Ave., Vivian, SD 57576; Jared Schelske, 300 W. Everett St., Kennebec, SD 57544-5108; and Deb Halverson, 300 Main Street, Kennebec, SD 57544.

Samantha B. Kelty and Michael S. Carter for Plaintiffs and Sara  
Frankenstein for Defendants attended the meeting.

3. Defendants' liability insurance carrier who may have coverage or limited coverage is South Dakota Public Assurance Alliance (SDPAA).

**B. Description of the Case**<sup>1</sup>

**C. Pleadings**

7. All pleadings have been filed and the parties at this time do not anticipate any amendments.
8. The parties agree that any amendments to the pleadings be filed by September 23, 2022.
9. Trial of this case will be nonjury.

**D. Initial Discovery Plan**

10. Prediscovery disclosures required under Rule 26(a)(1) will be completed by September 16, 2022. The parties further agree that all documents previously exchanged and exhibits introduced at the Preliminary Injunction hearing will be considered part of the disclosure and do not need to be re-exchanged.

**E. Discovery Plan**

11. The parties plan on negotiating and drafting Electronically Stored Information (ESI) protocols.

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<sup>1</sup> Not included per the Court's permission (ECF No. 56 ¶ B).

12. The parties will limit interrogatories to 25 per party; requests for production to 50 per party; and requests for admission to 30 per party.
13. The maximum number of depositions by each party (excluding expert witness depositions) is 10 per party.
14. Depositions will be limited to 7 hours.
15. Plaintiffs propose that all discovery (including expert discovery) will be completed by November 18, 2022. Defendants disagree.
16. Plaintiffs intend to call a Racially Polarized Voting Expert as well as a Senate Factors and Arlington Heights Expert at trial. Defendants intend to call expert(s) to be determined at a later date.
17. Plaintiffs propose that each party shall disclose the identity of expert witnesses and disclose the reports, including supplemental reports, required under Rule 26(a)(2) by November 22, 2022. Defendants disagree.
18. The parties anticipate expert depositions.
19. Each party shall be permitted to take 1 deposition of each expert, unless experts produce supplemental reports, in which case experts may be deposed again regarding the supplement.
20. Plaintiffs propose that discovery responses be supplemented pursuant to Rule 26(e) within 5 days of learning that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

Defendants propose that discovery responses be supplemented pursuant to Rule 26(e) within 30 days of learning that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

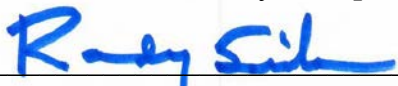
**F. Dispositive Motions and Trial**

21. Plaintiffs propose all dispositive motions shall be filed December 1, 2022, with responses due December 20, 2022, and replies due January 5, 2023. Defendants disagree.
22. The parties estimate needing 5 days for trial.
23. The parties do not consent to assignment of the case to a United States Magistrate Judge.

**G. Settlement**

24. Plaintiffs made a written settlement demand to Defendants before the Rule 26(f) meeting on September 9, 2022. Counsel for the parties discussed the demand at the meeting, and Defendants will provide a written response after considering the offer at a duly called meeting of the Board of Commissioners.

Dated this 22nd day of September 2022



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*Attorneys for the Plaintiffs*  
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### CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2022, I filed Plaintiffs' **PARTIES'**  
**DISCOVERY REPORT AND PLAINTIFFS' PROPOSED DISCOVERY PLAN** using  
the Court's CM/ECF system. Service of the foregoing document was completed on  
September 22, 2022, via email to Sara Frankenstein, attorney for the Defendants.

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